IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

C.M. No.1421-CII of 2007
in Civil Revision No.128 of 2007
Date of decision: January 23,2007

Gulzari Lal V. Surinder Pal

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri Jatinder Jit Kaur,Advocate, for the petitioner.

Viney Mittal,J.

CM No.1421-CII of 2007

The prayer made in the application is allowed. Documents Annexures P/1 to P/3 are taken on record.

Civil Revision No.128 of 2007

Petitioner before this court is a tenant who has been ordered to be ejected by the Rent Controller on a petition filed under section 13-B of the East Punjab Urban Rent Restriction Act,.1949 by a specified landlord.

The facts, which emerge from the record, show that landlord, Surinder Pal, had filed an ejectment petition under section 13-B of the Act claiming the ejectment of the tenant from the shop in question. It was pleaded by the landlord that the shop in question had been let out to the tenant at a monthly rent of Rs.150/- vide rent note dated March 16,1993 by the mother of the landlord. It was claimed by the landlord that after the death of his mother, he along with his brothers and sisters had become the owners of the property

in question. Later on, he had acquired the share of the remaining heirs and had become exclusive owner. It was claimed by the landlord that he was a Non-Resident Indian and was holding a British Passport. However, he had sought voluntary retirement from his service in England and wanted to shift back to India and start his own business in the shop in question.

After the leave to defend was granted to the tenant, he contested the ejectment application. He denied the maintainability of the petition filed by the landlord and also claimed that landlord has no intention of returning back to India.

Learned Rent Controller on the basis of the evidence on the record has come to the conclusion that mother of the landlord had died on December 25,1990 and thereafter the landlord, in any case, had become a co-owner of the property. Although later on, he had acquired the shares of his sisters also but, in any case, as a co-owner, he was entitled to file the petition being a specified landlord. The Rent Controller has also held that the requirement of the landlord is proved and as such he has ordered the ejectment of the tenant from the demised premises

I have heard Ms.Jatinder Jit Kaur, learned counsel appearing for the petitioner and with her assistance have also gone through the record of the case.

Learned counsel has argued that since the landlord was merely a co-owner of the shop in question, after the death of his mother, therefore, he was not entitled to the benefit of section 13-B of the Act. Learned counsel has argued that on his own showing the landlord has purchased the share of his sisters in the building vide sale deed dated January 30,2001 and,therefore, the requisite period

of five years of being an owner, prior to the filing of a petition under section 13-B of the Act, has not been satisfied.

I have duly considered the aforesaid contention of the learned counsel for the petitioner but find no merit in the same.

Even if it be taken that the landlord was merely a co-owner of the shop in question, after the death of his mother, still in view of the law laid down by this court in Karnail Singh V. Surinder Singh alias Chhinda 2006(2) Civil Court Cases 68, even a co-owner is competent to seek the ejectment of the tenant under section 13-B of the Act. Thus, the aforesaid grievance made by the tenant is without any justification.

Learned counsel has next argued, relying upon another ejectment order dated December 15,2006 (Annexure P/3 with the application), that the landlord has already got an ejectment order in his favour against another tenant, Dwarka Dass, and as such the ground of being a specified landlord was no more available to the landlord after an ejectment order had been passed qua another shop.

Even the aforesaid contention of the learned counsel cannot be accepted. Firstly, the present ejectment order against the tenant-petitioner has been passed on December 2,2006. At that point of time there was no ejectment order passed against any other tenant. Even otherwise, I find that as per observations made in the impugned order itself, there are two shops in a larger building. The present tenant is occupying one of the shops. In these circumstances, the landlord is entitled to seek ejectment of both the tenants, from the two shops, which form part of a a larger building, to meet his own requirement. In this view, I am supported by two

judgments of this court in M/s.Bhandari General Store and another V. Makhan Singh Grewal 2006(1) RCR 307 and Harbhajan Singh V. Gurdial Singh 2006(1) RCR 436.

No other point has been urged.

In view of the aforesaid discussion, I do not find any merit in the present petition. The same is dismissed.

January 23,2007 (Viney Mittal)
sks Judge